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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/773,666	02/06/2004	Thomas Stein	4617	7524
21553 7590 03/14/2007 FASSE PATENT ATTORNEYS, P.A. P.O. BOX 726 HAMPDEN, ME 04444-0726			EXAMINER TILL, TERRENCE R	
			ART UNIT 1744	PAPER NUMBER
SHORTENED STATUTORY PERIOD OF RESPONSE			MAIL DATE	DELIVERY MODE
3 MONTHS			03/14/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/773,666

Applicant(s)

STEIN, THOMAS

Examiner

Terrence R. Till

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 7-20 is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>2/6/04</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

3. Claims 1-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stein et al. (US 5,687,450) in view of Fleischhauer (US 3,883,922).

4. The patent to Stein et al. discloses a vacuum cleaner including a housing 1', a primary dirt collector (inherent) arranged in said housing, a suction motor unit 100' arranged in said housing, an inlet suction channel 8' communicating through said primary dirt collector to an inlet of said suction motor unit, and an exhaust outlet passage (adjacent wall 21') communicating from an outlet of said suction motor unit out of said housing to an environment outside of said vacuum cleaner, an improvement comprising an exhaust filter arrangement 5' that is interposed in said exhaust outlet passage and that comprises an exhaust filter material arranged externally from and externally covering a portion of the housing. It is noted that the exhaust filter of Stein

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et al. also doubles as a protective bumper. Stein et al. does not disclose that at least a large surface portion of said housing making up at least one-third of a total outer surface area of said housing of said vacuum cleaner is covered by the exhaust filter. The patent to Fleischhauer discloses a protective bumper 53 (see also column 2, lines 10-20) that makes up at least two thirds of a total outer surface area of said housing of said vacuum cleaner (see figures 4 and 4a). It would have been obvious to a person skilled in the art at the time the invention was made to modify the bumper/exhaust filter of Stein et al. to make up at least one-third of a total outer surface area of said housing of said vacuum cleaner in view of the teaching of Fleischhauer in order to eliminate any potential to damage furniture with the housing of Stein et al. Once modified, the device of Stein et al. would have the exhaust filter material is arranged to be externally visibly exposed as an outer visible component of said vacuum cleaner. With respect to claim 5, Stein et al., as modified by of Fleischhauer, does not disclose said housing includes a cylindrical portion and non-cylindrical end portions arranged at opposite axial ends of said cylindrical portion, said large surface portion of said housing that is externally covered by said exhaust filter material is at least a part of said cylindrical portion of said housing, and said exhaust filter material does not externally cover said end portions. It would have been an obvious matter of engineering choice to modify the housing of Stein et al. to have a cylindrical portion and non-cylindrical end portions, since such a modification would have involved a mere change in the shape or form of a component. A change in shape or form is generally recognized as being within the level of ordinary skill in the art. In re Dailey, 149 USPQ 47 (CCPA 1976). It should be noted that Fleischhauer does not cover the ends of the vacuum cleaner and thus, would not cover the ends of Stein et al.'s device either. With respect to claim 6, once modified, Stein et

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al., as modified by of Fleischhauer, would have the filter material in the form of an annular cylindrical tube, and said large surface portion of said housing that is externally covered by said exhaust filter material extends entirely circumferentially around said cylindrical portion of said housing.

Allowable Subject Matter

5. Claims 7-20 are allowed.
6. The following is an examiner's statement of reasons for allowance: with respect to claims 7 and 14, the prior art does not disclose nor render obvious the claimed combination of subject matter, particularly an annular exhaust air space formed as a portion of said exhaust outlet passage between said first portion of said housing and said tubular exhaust filter material. The exhaust filter of Stein et al. directly contacts the housing and could not be modified to have an annular exhaust space, absent impermissible hindsight.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

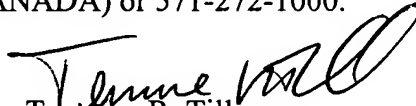
7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The patents to Nilsson, White and Guhne all disclose bumper coverings for vacuum cleaners that encase at least part of the housing.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Terrence R. Till whose telephone number is (571) 272-1280. The examiner can normally be reached on Mon. through Thurs. and every other Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gladys P. Corcoran can be reached on (571) 272-1214. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Terrence R. Till
Primary Examiner
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trt